

106TH CONGRESS  
1ST SESSION

# H. R. 2683

To authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1999

Mr. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL) (by request) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To authorize activities under the Federal railroad safety laws for fiscal years 2000 through 2003, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Railroad Safe-  
5       ty Enhancement Act of 1999”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds and declares the following:

8               (1) Consistent with the purposes of the Govern-  
9       ment Performance and Results Act of 1993, the  
10      Federal Railroad Administration has reshaped the

1 regulatory and compliance components of the Fed-  
2 eral railroad safety program to ensure that the en-  
3 tire program is squarely focused on achieving de-  
4 monstrable results, i.e., reducing the number of  
5 deaths and injuries associated with railroading in  
6 the United States. The foundation of the program is  
7 its emphasis on inclusion of all interested parties—  
8 railroad employees and labor unions, railroad man-  
9 agement, manufacturers, State government groups,  
10 and public associations—in identifying safety prob-  
11 lems and implementing solutions. This emphasis on  
12 safety partnership has helped begin a transformation  
13 of key aspects of the corporate culture of the Na-  
14 tion's railroads, a transformation that is producing  
15 safety and business benefits.

16 (2) The Safety Assurance and Compliance Pro-  
17 gram is an approach to safety that emphasizes the  
18 active partnership of the Federal Railroad Adminis-  
19 tration, rail labor representatives, and railroad man-  
20 agement in identifying current safety problems and  
21 jointly developing effective solutions to those prob-  
22 lems. One fundamental principle of this approach is  
23 tracing a safety problem to its root cause and at-  
24 tacking that cause rather than only its symptoms.  
25 Where a problem is determined to be system-wide,

1       this approach calls for a system-wide solution.  
2       Under this approach, the Federal Railroad Adminis-  
3       tration seeks to focus its inspection and enforcement  
4       resources on the most serious safety problems. This  
5       approach has demonstrated significant capacity for  
6       identifying and eliminating the root cause of system-  
7       wide safety problems by enlisting those most directly  
8       affected by such problems—railroad employees and  
9       managers—in a partnership effort. Used together  
10      with the Federal Railroad Administration’s regular  
11      inspections and enforcement tools, this approach  
12      provides a firm basis for addressing the safety chal-  
13      lenges facing the changing railroad industry and ad-  
14      vancing toward the safety program’s ultimate goal of  
15      zero tolerance for any safety hazard in the railroad  
16      industry.

17           (3) The Railroad Safety Advisory Committee,  
18      which was established by the Federal Railroad Ad-  
19      ministration under the Federal Advisory Committee  
20      Act (5 U.S.C. App. 2), is proving to be an effective  
21      means of involving interested members of the rail-  
22      road community, including the staff of the National  
23      Transportation Safety Board, in the development of  
24      railroad safety rules issued by the Federal Railroad  
25      Administration. The Congress strongly encourages

1 the continued use of this collaborative method of de-  
2 veloping safety regulations, which is more likely to  
3 produce rules that are based on an industry con-  
4 sensus and, accordingly, more readily understood  
5 and more consistently complied with, than rules pro-  
6 duced under more traditional methods.

7 (4) A critical element for the sustained success  
8 of any company's safety program is the establish-  
9 ment and growth of a clearly defined, positive safety  
10 culture. The safety culture of a company encom-  
11 passes the beliefs, values, attitudes, and practices  
12 shared by employees and company officials and in-  
13 cludes such matters as how decisions are made, who  
14 makes them, how rewards and discipline are distrib-  
15 uted, who is promoted, and how people are treated.  
16 Many of today's most successful organizations recog-  
17 nize that people are their most important assets;  
18 they have come to realize that it is important for  
19 managers and employees to share a common vision  
20 and work in concert to pursue common goals. By ex-  
21 ploring innovative concepts involving employee em-  
22 powerment, coaching, counseling, and enhanced  
23 training—often through joint partnerships involving  
24 rail labor, railroad management, and the Federal  
25 Railroad Administration—some railroads are seeking

1 new and better methods to promote compliance with  
2 company and Federal safety rules and to promote  
3 the free flow of safety-related information to better  
4 identify safety hazards and prevent injuries and ac-  
5 cidents. The improvements in the industry's safety  
6 culture that have resulted from these initiatives hold  
7 the promise of increasing railroad safety to historic  
8 levels and moving toward the ultimate goal of zero  
9 tolerance for safety hazards. The Congress strongly  
10 endorses efforts by the Federal Railroad Administra-  
11 tion, rail labor, and individual railroads to build  
12 meaningful safety partnerships that foster positive  
13 safety cultures on the Nation's railroads. The Fed-  
14 eral Railroad Administration has committed to re-  
15 port regularly to the Congress on the continuing evo-  
16 lution of the railroad industry's safety culture.

17 (5) Although advances have been made in the  
18 industry's safety culture and rail safety trends are  
19 generally favorable, in terms of total fatalities, em-  
20 ployee and other injuries, and grade crossing inci-  
21 dents, nevertheless, too many of these accidents and  
22 incidents still occur, as illustrated by recent fatalities  
23 related to railroading. In 1998, eight railroad em-  
24 ployees were killed in switching-related incidents,  
25 and one was killed in a train collision. In the same

1 year, hundreds of motorists, their passengers, and  
2 others lost their lives in grade crossing accidents and  
3 incidents, the vast majority of which are attributable  
4 to human factors involving the motorists. More re-  
5 cently, in March 1999, 11 Amtrak passengers died  
6 in a truck-train grade crossing collision at Bourbon-  
7 nais, Illinois. Furthermore, each year approximately  
8 a third of all train accidents are caused by human  
9 factors. Clearly, there is a need for changes in the  
10 law to prevent deaths and accidents such as these  
11 by finding remedies to the kinds of conditions and  
12 behaviors that permitted these tragedies to occur;  
13 therefore, we enact the following statute, which deals  
14 with the critical human factor issues of fatigue and  
15 safety culture in the railroad industry, with grade  
16 crossing safety, and with other important rail safety  
17 issues.

18 **SEC. 3. AMENDMENT OF TITLE 49, UNITED STATES CODE.**

19 Except as otherwise expressly provided, whenever in  
20 this Act an amendment or repeal is expressed in terms  
21 of an amendment to, or a repeal of, a section or other  
22 provision, the reference shall be considered to be made to  
23 a section or other provision of title 49, United States  
24 Code.

**1 SEC. 4. TABLE OF CONTENTS.**

**2 The table of contents for this Act is as follows:**

- Sec. 1. Short title.
- Sec. 2. Findings.
- Sec. 3. Amendment of title 49, United States Code.
- Sec. 4. Table of contents.

**TITLE I—HOURS OF SERVICE**

- Sec. 101. Definitions.
- Sec. 102. Limitations on duty hours of train employees.
- Sec. 103. Limitations on duty hours of signal employees.
- Sec. 104. Limitations on duty hours of dispatching service employees.
- Sec. 105. Conforming amendments regarding hours of service violations.
- Sec. 106. Fatigue management plans.
- Sec. 107. Joint submission of waiver petitions.
- Sec. 108. Employee sleeping quarters.

**TITLE II—MONITORING OF RAILROAD RADIO COMMUNICATIONS**

- Sec. 201. Enhanced inspection and investigation authority under the Federal railroad safety laws.
- Sec. 202. Exception to chapter 119, title 18, United States Code.

**TITLE III—RULEMAKING AUTHORITY**

- Sec. 301. Railroad accident and incident reporting.
- Sec. 302. High-speed rail noise regulation.

**TITLE IV—WHISTLEBLOWER PROTECTION**

- Sec. 401. Expansion of employee protections.

**TITLE V—GRADE CROSSING SAFETY**

- Sec. 501. Emergency notification of grade crossing problems.
- Sec. 502. Grade crossing signal violations.
- Sec. 503. National highway-rail crossing inventory.

**TITLE VI—MISCELLANEOUS PROVISIONS**

- Sec. 601. Technical amendments regarding adjustment of civil penalties for inflation.
- Sec. 602. Revision of special preemption provision.
- Sec. 603. Railroad safety inspection user fees.
- Sec. 604. Authorization of appropriations.

**3 TITLE I—HOURS OF SERVICE**

**4 SEC. 101. DEFINITIONS.**

**5 Section 21101 is amended—**

1 (1) in paragraph (4), by striking “employed by  
2 a railroad carrier”; and

3 (2) by inserting the following new paragraphs:

4 “(6) ‘dually employed’ means being at the same  
5 time in the employ of two or more railroad carriers,  
6 of two or more railroad contractors, or of both one  
7 or more railroad carriers and one or more railroad  
8 contractors.

9 “(7) ‘railroad contractor’ or, in context, ‘con-  
10 tractor’ means an independent contractor to a rail-  
11 road carrier or a subcontractor to an independent  
12 contractor to a railroad carrier.”.

13 **SEC. 102. LIMITATIONS ON DUTY HOURS OF TRAIN EM-**  
14 **PLOYEES.**

15 (a) Section 21103(a) is amended—

16 (1) by striking “officers” and inserting “man-  
17 agers, supervisors, officers,”;

18 (2) by redesignating the text of the subsection  
19 as paragraph (1) of the subsection, and redesign-  
20 ating paragraphs (1) and (2) as subparagraphs (A)  
21 and (B), respectively, of the paragraph; and

22 (3) by inserting the following at the end:

23 “(2) Except as provided in subsection (c) of this sec-  
24 tion, a railroad carrier and its managers, supervisors, offi-  
25 cers, and agents and a railroad contractor and the con-



1 tractor’s managers, supervisors, officers, and agents may  
2 not, if the railroad carrier or railroad contractor has ac-  
3 tual knowledge that a train employee is dually employed  
4 and actual knowledge of the individual’s schedule for the  
5 time period in question, require or allow the dually em-  
6 ployed train employee to remain or go on duty, nor may  
7 a dually employed train employee remain or go on duty—

8 “(A) unless that employee has had at least 8  
9 consecutive hours off duty during the prior 24  
10 hours; or

11 “(B) after that employee has been on duty for  
12 12 consecutive hours, until that employee has had at  
13 least 10 consecutive hours off duty.”.

14 (b) Section 21103 is amended by adding the following  
15 at the end:

16 “(d) NOTICE ABOUT DUAL EMPLOYMENT AND  
17 SCHEDULE.—

18 “(1) NOTIFICATION DUTIES OF RAILROAD CAR-  
19 RIERS AND RAILROAD CONTRACTORS.—Not later  
20 than January 31 each year, a railroad carrier and  
21 a railroad contractor shall inform each of its train  
22 employees in writing—

23 “(A) that all time spent performing aggre-  
24 gate duty on one or more railroad carriers or  
25 one or more railroad contractors or a combina-

1           tion thereof counts towards the limitations on  
2           duty hours of this section;

3           “(B) about the employee’s responsibilities  
4           under paragraph (2) of this subsection; and

5           “(C) about the penalties under section  
6           21303 of this title applicable to a failure to  
7           comply with paragraph (2) of this subsection.

8           “(2) DUTIES OF EMPLOYEES.—A dually em-  
9           ployed train employee—

10           “(A) shall inform each of his or her rail-  
11           road carrier employers and railroad contractor  
12           employers in writing within 5 days of estab-  
13           lishing an employee-employer relationship that  
14           results in the employee’s becoming dually em-  
15           ployed; and

16           “(B) shall ensure that each of his or her  
17           railroad carrier employers and railroad con-  
18           tractor employers is kept informed about the  
19           employee’s current work schedule with each of  
20           his or her other employing railroad carriers and  
21           railroad contractors. The notification shall state  
22           which portions of that service are likely to be  
23           in covered service.

24           “(3) RECORD RETENTION DUTIES OF RAILROAD  
25           CARRIERS AND RAILROAD CONTRACTORS.—Upon re-

1       ceiving written notification of dual employment, a  
2       railroad carrier and a railroad contractor shall—

3               “(A) retain at the carrier’s system and di-  
4       vision headquarters or at the contractor’s head-  
5       quarters one copy of the notification for a pe-  
6       riod of 2 years after termination of such dual  
7       employment status; and

8               “(B) make the record available to rep-  
9       resentatives of the Secretary for inspection and  
10       copying during normal business hours.”.

11 **SEC. 103. LIMITATIONS ON DUTY HOURS OF SIGNAL EM-**  
12 **PLOYEES.**

13       (a) Section 21104(a)(2) is amended—

14               (1) by striking “officers” and inserting “man-  
15       agers, supervisors, officers,”;

16               (2) by redesignating the text of the paragraph  
17       as subparagraph (A) of the paragraph, and redesign-  
18       ating subparagraphs (A), (B), and (C) as clauses  
19       (i), (ii), and (iii), respectively, of the subparagraph;  
20       and

21               (3) by inserting the following at the end:

22       “(B) Except as provided in subsection (c) of this sec-  
23       tion, a railroad carrier and its managers, supervisors, offi-  
24       cers, and agents and a railroad contractor and the con-  
25       tractor’s managers, supervisors, officers, and agents may

1 not, if the railroad carrier or railroad contractor has ac-  
2 tual knowledge that a signal employee is dually employed  
3 and actual knowledge of the individual's schedule for the  
4 time period in question, require or allow the dually em-  
5 ployed signal employee to remain or go on duty, nor may  
6 a dually employed signal employee remain or go on duty—

7           “(i) unless that employee has had at least 8  
8           consecutive hours off duty during the prior 24  
9           hours;

10           “(ii) after that employee has been on duty for  
11           12 consecutive hours, until that employee has had at  
12           least 10 consecutive hours off duty; or

13           “(iii) after that employee has been on duty a  
14           total of 12 hours during a 24-hour period, or after  
15           the end of that 24-hour period, whichever occurs  
16           first, until that employee has had at least 8 consecu-  
17           tive hours off duty.”.

18           (b) Section 21104(b) is amended in paragraph (3),  
19 by striking “, except that up to one hour of that time  
20 spent returning from the final trouble call of a period of  
21 continuous or broken service is time off duty”.

22           (c) Section 21104 is amended by adding the following  
23 at the end:

24           “(d) NOTICE ABOUT DUAL EMPLOYMENT AND  
25 SCHEDULE.—

1           “(1) NOTIFICATION DUTIES OF RAILROAD CAR-  
2           RIERS AND RAILROAD CONTRACTORS.—Not later  
3           than January 31 each year, a railroad carrier and  
4           a railroad contractor shall inform each of its signal  
5           employees in writing—

6                   “(A) that all time spent performing aggre-  
7                   gate duty on one or more railroad carriers or  
8                   one or more railroad contractors or a combina-  
9                   tion thereof counts towards the limitations on  
10                  duty hours of this section;

11                  “(B) about the employee’s responsibilities  
12                  under paragraph (2) of this subsection; and

13                  “(C) about the penalties under section  
14                  21303 of this title applicable to a failure to  
15                  comply with paragraph (2) of this subsection.

16           “(2) DUTIES OF EMPLOYEES.—A dually em-  
17           ployed signal employee—

18                   “(A) shall inform each of his or her rail-  
19                   road carrier employers and railroad contractor  
20                   employers in writing within 5 days of estab-  
21                   lishing an employee-employer relationship that  
22                   results in the employee’s becoming dually em-  
23                   ployed; and

24                   “(B) shall ensure that each of his or her  
25                   railroad carrier employers and railroad con-

tractor employers is kept informed about the employee's current work schedule with each of the other employing railroad carriers and railroad contractors. The notification shall state which portions of that service are likely to be in covered service.

“(3) RECORD RETENTION DUTIES OF RAILROAD CARRIERS AND RAILROAD CONTRACTORS.—Upon receiving written notification of dual employment, a railroad carrier and railroad contractor shall—

“(A) retain at the carrier's system and division headquarters or at the contractor's headquarters one copy of the notification for a period of 2 years after termination of such dual employment status; and

“(B) make the record available to representatives of the Secretary for inspection and copying during normal business hours.”.

**SEC. 104. LIMITATIONS ON DUTY HOURS OF DISPATCHING SERVICE EMPLOYEES.**

(a) Section 21105(b) is amended—

(1) by striking “or allowed” and inserting “or allowed by a railroad carrier or its managers, supervisors, officers, and agents”;

1           (2) by redesignating the text of the subsection  
2           as paragraph (1) of the subsection, and redesign-  
3           nating paragraphs (1) and (2) as subparagraphs (A)  
4           and (B), respectively, of the paragraph; and

5           (3) by inserting the following at the end:

6           “(2) Except as provided in subsection (d) of this sec-  
7           tion, a railroad carrier and its managers, supervisors, offi-  
8           cers, and agents and a railroad contractor and the con-  
9           tractor’s managers, supervisors, officers, and agents may  
10          not, if the railroad carrier or railroad contractor has ac-  
11          tual knowledge that a dispatching service employee is du-  
12          ally employed and actual knowledge of the individual’s  
13          schedule for the time period in question, require or allow  
14          the dually employed dispatching service employee to re-  
15          main or go on duty, nor may a dually employed dis-  
16          patching service employee remain or go on duty, for more  
17          than—

18               “(A) a total of 9 hours during a 24-hour period  
19               in a tower, office, station, or place at which at least  
20               2 shifts are employed; or

21               “(B) a total of 12 hours during a 24-hour pe-  
22               riod in a tower, office, station, or place at which only  
23               one shift is employed.”.

24          (b) Section 21105(c) is amended to read as follows:

1       “(c) DETERMINING TIME ON DUTY.—In determining  
2 under subsection (b) of this section the time a dispatching  
3 service employee is on or off duty, the following rules  
4 apply:

5           “(1) Time spent performing any other service  
6 for one or more railroad carriers or one or more rail-  
7 road contractors or a combination thereof during a  
8 24-hour period in which the employee is on duty in  
9 a tower, office, station, or other place is time on  
10 duty in that tower, office, station, or place, and  
11 counts toward the employee’s aggregate time on  
12 duty.

13           “(2) If during a 24-hour period an employee  
14 performs the duties of a dispatching service em-  
15 ployee for more than one railroad carrier or railroad  
16 contractor or for a railroad carrier and a railroad  
17 contractor, and at least one of those tours of duty  
18 is in a tower, office, station, or other place at which  
19 at least 2 shifts are employed, then the duty limits  
20 of subsection (b)(1) of this section apply.

21           “(3) All time on duty by the employee for any  
22 railroad carrier or railroad contractor shall be in-  
23 cluded.”.

24       (c) Section 21105 is amended by adding the following  
25 at the end:



1       “(e) NOTICE ABOUT DUAL EMPLOYMENT AND  
2 SCHEDULE.—

3               “(1) NOTIFICATION DUTIES OF RAILROAD CAR-  
4 RIERS AND RAILROAD CONTRACTORS.—Not later  
5 than January 31 each year, a railroad carrier and  
6 a railroad contractor shall inform each of its dis-  
7 patching service employees in writing—

8               “(A) that all time spent performing aggre-  
9 gate duty on one or more railroad carriers or  
10 railroad contractors or a combination thereof  
11 counts towards the limitations on duty hours of  
12 this section;

13               “(B) about the employee’s responsibilities  
14 under paragraph (2) of this subsection; and

15               “(C) about the penalties under section  
16 21303 of this title applicable to a failure to  
17 comply with paragraph (2) of this subsection.

18               “(2) DUTIES OF EMPLOYEES.—A dually em-  
19 ployed dispatching service employee—

20               “(A) shall inform each of his or her rail-  
21 road carrier employers and railroad contractor  
22 employers in writing within 5 days of estab-  
23 lishing an employee-employer relationship that  
24 results in the employee’s becoming dually em-  
25 ployed; and

“(B) shall ensure that each of his or her railroad carrier employers and railroad contractor employers is kept informed about the employee’s current work schedule with each of his or her other employing railroad carriers and railroad contractors. The notification shall state which portions of that service are likely to be in covered service.

“(3) RECORD RETENTION DUTIES OF RAILROAD CARRIERS AND RAILROAD CONTRACTORS.—Upon receiving written notification of dual employment, a railroad carrier and a railroad contractor shall—

“(A) retain at the carrier’s system and division headquarters or at the railroad contractor’s headquarters one copy of the notification for a period of 2 years after termination of such dual employment status; and

“(B) make the record available to representatives of the Secretary for inspection and copying during normal business hours.”.

**SEC. 105. CONFORMING AMENDMENTS REGARDING HOURS OF SERVICE VIOLATIONS.**

(a) Section 21106 is amended by striking “officers” and inserting “managers, supervisors, officers,”.

1 (b) Section 21303(c) is amended by striking “offi-  
2 cers” and inserting “managers, supervisors, officers,”.

3 **SEC. 106. FATIGUE MANAGEMENT PLANS.**

4 (a) AMENDMENT.—Chapter 211 is amended by add-  
5 ing at the end the following new section:

6 **“§ 21109. Fatigue management plans**

7 “(a) SUBMISSION OF PLANS AND AMENDMENTS.—  
8 (1) Each Class I and Class II railroad carrier, each rail-  
9 road carrier providing intercity railroad passenger service,  
10 and each railroad carrier providing commuter or other  
11 short-haul railroad passenger service in a metropolitan or  
12 suburban area, shall submit to the Secretary of Transpor-  
13 tation a fatigue management plan that is designed to re-  
14 duce the fatigue experienced by railroad employees (as de-  
15 fined by section 21101 of this chapter) covered by the  
16 hours of service laws and railroad employees who con-  
17 struct or maintain track, and to reduce the likelihood of  
18 accidents and injuries caused by fatigue. The plan shall  
19 discuss each of the elements set forth in subsection (b)  
20 of this section and shall be submitted not more than one  
21 year after enactment of this section, or not less than 45  
22 days prior to commencing railroad operations, whichever  
23 is later. However, with respect to any group of directly  
24 affected employees, a carrier may submit its plan within  
25 two years of enactment if, within one year of enactment,

1 it submits to the Secretary a letter signed by the labor  
2 organization representing those employees stating that the  
3 carrier is actively involved in negotiating a fatigue man-  
4 agement plan with that organization. A carrier shall file  
5 any amendment to its plan with the Secretary.

6       “(2) Each Class III railroad carrier that operates on  
7 the track of a carrier subject to paragraph (1) of this sub-  
8 section (or otherwise engages in joint operations with a  
9 carrier subject to paragraph (1) of this subsection), except  
10 as necessary for purposes of interchange, shall submit to  
11 the Secretary a fatigue management plan that is designed  
12 to reduce the fatigue experienced by train employees (as  
13 defined by section 21101 of this chapter) covered by the  
14 hours of service laws and to reduce the likelihood of acci-  
15 dents and injuries caused by fatigue. However, the plan  
16 submitted by each affected Class III railroad carrier need  
17 not discuss employees who are not engaged in or connected  
18 with the movement of a train over the track of a carrier  
19 subject to paragraph (1) of this subsection (or otherwise  
20 engage in joint operations with a carrier subject to para-  
21 graph (1) of this subsection) except as necessary for the  
22 purpose of interchange. The plan shall discuss the ele-  
23 ments set forth in subsection (b) of this section and shall  
24 be submitted not more than three years after enactment

1 of this section, or not less than 60 days prior to com-  
2 mencing railroad operations, whichever is later.

3 “(3) Each railroad carrier subject to paragraph (1)  
4 or (2) of this subsection shall implement its plan and any  
5 amendment to that plan no later than 90 days after the  
6 date of its submission to the Secretary. If the plan fails  
7 to contain a discussion of any required element, the Sec-  
8 retary shall notify the carrier as to the specific element  
9 or elements that were omitted. The carrier shall then sub-  
10 mit an amended plan within 90 days of such notification.

11 “(4)(A) Each railroad carrier subject to paragraph  
12 (1) or (2) of this subsection shall employ good faith and  
13 use its best efforts to reach agreement by consensus with  
14 all of its directly affected employee groups (including each  
15 labor organization representing a class or craft of directly  
16 affected employees of the railroad carrier (as applicable))  
17 on the contents of the fatigue management plan and  
18 amendments to the plan, and, wherever possible, the car-  
19 rier and those employee groups shall jointly submit the  
20 plan and each amendment to the Secretary.

21 “(B) If the carrier and its employees cannot reach  
22 consensus on the contents of the plan or an amendment  
23 to the plan, then—

1           “(i) the carrier shall file the plan or amendment  
2           with the Secretary as required by subsection (a) of  
3           this section; and

4           “(ii) each directly affected employee group (as  
5           applicable), may include in the plan or an amend-  
6           ment to a plan a statement explaining its views on  
7           the plan or amendment on which consensus was not  
8           reached.

9           “(b) ELEMENTS OF THE FATIGUE MANAGEMENT  
10          PLAN.—

11           “(1) GENERAL FACTORS.—The fatigue manage-  
12          ment plan and each amendment shall—

13                   “(A) be based upon scientific knowledge  
14                   and literature relating to fatigue;

15                   “(B) describe the methods and measures  
16                   the carrier will utilize to determine the effec-  
17                   tiveness of each fatigue countermeasure;

18                   “(C) take into account the varying cir-  
19                   cumstances of operations by the railroad carrier  
20                   on different parts of its system, and what vari-  
21                   ations in fatigue countermeasures are appro-  
22                   priate to address those varying circumstances;  
23                   and

24                   “(D) to the extent that implementation of  
25                   the plan is connected in any way to a waiver re-

1           quest submitted under section 21108 of this  
2           chapter, discuss that connection.

3           “(2) SUBJECTS THAT CONCERN ALL DIRECTLY  
4           AFFECTED EMPLOYEES.—With respect to directly  
5           affected employees, whether working in scheduled or  
6           nonscheduled service, the plan shall discuss the fol-  
7           lowing subjects:

8                   “(A) Education and training on the phys-  
9                   iological and other human factors that affect fa-  
10                  tigue, as well as strategies to counter fatigue.

11                  “(B) Joint labor/management initiatives  
12                  concerning the identification, diagnosis, and  
13                  treatment of sleep disorders that could con-  
14                  tribute to fatigue.

15                  “(C) Methods of avoiding increased fatigue  
16                  due to the need to respond to emergency situa-  
17                  tions, such as derailments and natural disas-  
18                  ters.

19                  “(D) Scheduling practices that improve  
20                  work/rest cycles and minimize cumulative sleep  
21                  loss and fatigue.

22                  “(E) Methods used to determine that cur-  
23                  rent and future staffing levels are adequate to  
24                  ensure that current and anticipated workloads

1 can be handled without exacerbating fatigue on  
2 the part of affected employees.

3 “(F) Alertness strategies to address acute  
4 sleepiness and fatigue while an employee is on  
5 duty.

6 “(G) Opportunities to obtain restful sleep  
7 at lodging facilities.

8 “(H) How to minimize disturbances of the  
9 employee’s rest within the carrier’s control dur-  
10 ing rest periods.

11 “(3) SUBJECTS THAT CONCERN DIRECTLY AF-  
12 FECTED EMPLOYEES IN NONSCHEDULED SERVICE.—  
13 With respect to directly affected employees working  
14 in nonscheduled service, the plan shall also discuss  
15 the following subjects:

16 “(A) Methods of affording greater sched-  
17 uling predictability to allow an employee to bet-  
18 ter plan personal activities, sleep, and prepara-  
19 tion for work during the off-duty period.

20 “(B) How to provide employees with op-  
21 portunities to take days off from work on a  
22 scheduled basis.

23 “(C) How to avoid abrupt changes in rest  
24 cycles for employees returning to duty after an



1 extended absence due to circumstances includ-  
2 ing illness, injury, or vacation.

3 “(D) Ways to minimize the amount of time  
4 that employees spend awaiting the arrival of  
5 deadhead transportation to their points of final  
6 release, and to mitigate the fatigue con-  
7 sequences of excessive waiting time.

8 “(E) How to maximize the amount of rest  
9 time given at the employee’s home terminal.

10 “(c) REPORTS TO THE SECRETARY ON EFFECTIVE-  
11 NESS OF COUNTERMEASURES.—(1) Each railroad carrier  
12 required by paragraph (1) of subsection (a) of this section  
13 to submit a fatigue management plan shall also submit  
14 to the Secretary by June 30 of the years 2000 through  
15 2003, an annual report on the effectiveness of each fatigue  
16 countermeasure that it has employed, including a descrip-  
17 tion of the methods and measures employed by the carrier  
18 to determine the effectiveness of these countermeasures  
19 and any problems encountered in implementing them. In  
20 preparing each report, a carrier shall consult with the  
21 labor organizations that represent the classes or crafts of  
22 directly affected employees of the railroad carrier; each re-  
23 port shall include any comments these organizations have  
24 on the report.

1       “(2) Each railroad carrier required by paragraph (2)  
2 of subsection (a) of this section to submit a fatigue man-  
3 agement plan for its affected train employees shall also  
4 submit to the Secretary by June 30, 2003, a report on  
5 the effectiveness of each fatigue countermeasure that it  
6 has employed, including a description of the methods and  
7 measures employed by the carrier to determine the effec-  
8 tiveness of these countermeasures and any problems en-  
9 countered in implementing them. In preparing the report,  
10 a carrier shall consult with the labor organizations that  
11 represent the affected train employees of the carrier, and  
12 each report shall include any comments these organiza-  
13 tions have on the report.

14       “(d) SECRETARY’S ASSESSMENT OF FATIGUE COUN-  
15 TERMEASURES.—The Secretary shall, at least once every  
16 fiscal year for the fiscal years 2000 through 2003, provide  
17 to the committees of jurisdiction a current assessment  
18 (which may be in letter form) of fatigue mitigation efforts  
19 by railroad carriers and their directly affected employees,  
20 a summary of any regulatory or other action the Secretary  
21 intends to take regarding fatigue mitigation, and any rec-  
22 ommendations for legislative action concerning fatigue. In  
23 making such recommendations, the Secretary shall con-  
24 sider whether, in the interest of railroad safety, additional  
25 categories or classes of railroad carriers should be required

1 to submit fatigue management plans, including whether  
2 additional categories or classes of carrier employees should  
3 be covered.

4 “(e) ENFORCEMENT.—(1) It shall be a violation of  
5 this section for a railroad carrier subject to this section  
6 to—

7 “(A) fail to submit to the Secretary a fatigue  
8 management plan or, in any, an amendment to a fa-  
9 tigue management plan, by the required date;

10 “(B) submit a fatigue management plan that  
11 fails to contain a discussion of the elements required  
12 to be included under subsection (b) of this section,  
13 unless the carrier submits a properly amended plan  
14 within the time provided under subsection (a)(3) of  
15 this section;

16 “(C) fail to implement substantially its fatigue  
17 management plan by the required date;

18 “(D) fail to submit to the Secretary a report  
19 under subsection (c) of this section by the required  
20 date; or

21 “(E) submit a report under subsection (c) of  
22 this section that fails to contain a discussion of the  
23 elements required to be included.

24 “(2) Every day that a violation continues constitutes  
25 a separate violation.

1       “(3) In addition to other enforcement actions avail-  
2 able with regard to violations of this section, the Secretary  
3 may, with regard to violations listed in subparagraphs  
4 (1)(A) and (C) of this subsection, issue an order under  
5 section 20111 of this part, directing the carrier to imple-  
6 ment whatever fatigue mitigation measures the Secretary  
7 finds to be appropriate to deal with the lack of a plan  
8 or lack of substantial implementation of one or more ele-  
9 ments of a plan, which may include restrictions on max-  
10 imum on-duty hours or minimum off-duty periods, or  
11 both, that are more stringent than the restrictions of this  
12 chapter, such as minimum periods of advance notice of  
13 reporting times, minimum periods of undisturbed rest, a  
14 specified number of days off in a week or month, longer  
15 periods off duty, and shorter periods on duty.

16       “(f) DEFINITIONS.—In this section:

17               “(1) DIRECTLY AFFECTED EMPLOYEE.—The  
18 term ‘directly affected employee’ means—

19                       “(A) with respect to a Class I or II rail-  
20 road carrier or a railroad carrier providing  
21 intercity railroad passenger service or commuter  
22 or other short-haul railroad passenger service in  
23 a metropolitan or suburban area, an employee  
24 of that carrier covered by the hours of service  
25 laws and an employee of that carrier who con-

1           structs or maintains track and is therefore cov-  
2           ered by the terms of the plan; and

3           “(B) with respect to a Class III railroad  
4           carrier, a train employee (as defined by section  
5           21101 of this chapter) covered by the hours of  
6           service laws who is engaged in or connected  
7           with the movement of a train over the track of  
8           a carrier subject to subsection (a)(1) of this  
9           section (or otherwise engaged in joint oper-  
10          ations with a carrier subject to subsection  
11          (a)(1) of this section) except as necessary for  
12          purposes of interchange.

13          “(2) EMPLOYEE IN NONSCHEDULED SERV-  
14          ICE.—The term ‘employee in nonscheduled service’  
15          means a directly affected employee who is assigned  
16          to work a tour of duty without regular and predict-  
17          able starting and stopping times.

18          “(g) CONSULTATION WITH KNOWLEDGEABLE  
19          GROUPS.—In carrying out duties under this section, the  
20          Secretary may consult with and receive advice and rec-  
21          ommendations from any group comprised of labor and  
22          management representatives with relevant expertise, in-  
23          cluding the North American Rail Alertness Partnership,  
24          or technical experts. Such consultation is not subject to  
25          the Federal Advisory Committee Act (5 U.S.C. App.).”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
2 sections for chapter 211 is amended by adding at the end  
3 the following new item:

“21109. Fatigue management plans.”.

4 **SEC. 107. JOINT SUBMISSION OF WAIVER PETITIONS.**

5 (a) AMENDMENT.—Chapter 211 is amended by strik-  
6 ing section 21108 and inserting the following:

7 **“§ 21108. Joint submission of waiver petitions**

8 **“(a) WAIVER.—**

9 **“(1) PETITION.—**A railroad carrier (including a  
10 Class III railroad carrier) and all labor organizations  
11 representing any class or craft of directly affected  
12 employees of the railroad carrier may jointly petition  
13 the Secretary of Transportation for approval of a  
14 waiver, in whole or in part, of compliance with this  
15 chapter, in order to implement alternatives to the  
16 strict application of the requirements of this chapter  
17 to such class or crafts of employees, including re-  
18 quirements concerning maximum on-duty and min-  
19 imum off-duty periods. If the petition has any con-  
20 nection to a fatigue management plan that has been  
21 or will be submitted under section 21109 of this  
22 chapter, the petition shall explain the relationship  
23 between the waiver being sought and any specific  
24 provisions of that plan.

1           “(2) AUTHORITY TO WAIVE.—Based on such a  
2 joint petition under paragraph (1) or paragraph (3)  
3 of this subsection, the Secretary may, after notice  
4 and opportunity for comment, waive in whole or in  
5 part compliance with this chapter for any specified  
6 time period, if the Secretary determines that such a  
7 waiver of compliance is in the public interest and  
8 consistent with railroad safety. A waiver is con-  
9 sistent with railroad safety if it is demonstrated that  
10 the employees involved will perform their job func-  
11 tions at a level of safety at least functionally equiva-  
12 lent to that afforded by the provision or provisions  
13 of this chapter sought to be waived. A notice of any  
14 petition under this section and an explanation of any  
15 waiver granted under this section shall be published  
16 in the Federal Register.

17           “(3) WHEN EMPLOYEES ARE NOT REP-  
18 RESENTED BY LABOR ORGANIZATIONS.—In the  
19 event that labor organizations do not represent  
20 classes or crafts of directly affected employees of a  
21 railroad carrier, the carrier may, after consulting  
22 with all of its directly affected employee groups in  
23 drafting the waiver request, request the waiver of  
24 any provisions of this chapter, subject to the same

1 conditions and procedures as a request made under  
2 paragraph (1) of this subsection.

3 “(b) DEFINITION.—In this section, the term ‘directly  
4 affected employee’ means an employee covered by the  
5 hours of service laws to whose hours of service the terms  
6 of the waiver petitioned for specifically apply.”.

7 (b) TABLE OF SECTIONS AMENDMENT.—The item  
8 relating to section 21108 in the table of sections for chap-  
9 ter 211 is amended to read as follows:

“21108. Joint submission of waiver petitions.”.

10 **SEC. 108. EMPLOYEE SLEEPING QUARTERS.**

11 Section 21106 is amended—

12 (1) by inserting “(a) SLEEPING QUARTERS.—”  
13 before “A railroad carrier and its”;

14 (2) by striking the word “and” at the end of  
15 paragraph (1);

16 (3) by striking the word “performed” at the  
17 end of paragraph (2) and inserting “performed;  
18 and”;

19 (4) by inserting the following new paragraph  
20 after paragraph (2):

21 “(3) may not, after January 1, 2002, provide  
22 sleeping quarters (including crew quarters, camp or  
23 bunk cars, and trailers) for employees, and any indi-  
24 viduals employed to maintain the right of way of a  
25 railroad carrier in an area or in the immediate vicin-



1       ity of an area in which railroad switching or hump-  
 2       ing operations are performed.”; and

3               (5) by inserting the following at the end:

4       “(b) DEFINITION.—In subsection (a)(3) of this sec-  
 5       tion, the term ‘immediate vicinity’ means the area within  
 6       one-half mile (2,640 feet) (804 meters) of switching or  
 7       humping operations as measured from the nearest rail of  
 8       the nearest trackage where switching or humping oper-  
 9       ations are performed to the exterior wall of the structure  
 10      housing the sleeping quarters that is closest to such oper-  
 11      ations.”.

## 12   **TITLE II—MONITORING OF RAIL-** 13       **ROAD   RADIO   COMMUNICA-** 14       **TIONS**

### 15   **SEC. 201. ENHANCED INSPECTION AND INVESTIGATION AU-** 16               **THORITY UNDER THE FEDERAL RAILROAD** 17               **SAFETY LAWS.**

18       Section 20107 is amended by inserting at the end the  
 19      following new subsections:

20       “(c) RAILROAD RADIO COMMUNICATIONS.—(1) To  
 21      carry out the Secretary’s responsibilities under this part,  
 22      officers, employees, or agents of the Secretary are author-  
 23      ized to conduct the following kinds of inspection and inves-  
 24      tigative activities at reasonable times:

1           “(A) To listen to a radio communication that is  
2           broadcast or transmitted over a frequency author-  
3           ized by the Federal Communications Commission to  
4           a railroad carrier, with or without making their  
5           presence known to the sender or other receivers of  
6           the communication and with or without obtaining  
7           the consent of the sender or other receivers of the  
8           communication.

9           “(B) To communicate the existence, contents,  
10          substance, purport, effect, or meaning of the com-  
11          munication, subject to the restrictions in paragraph  
12          (3) of this subsection.

13          “(C) To receive or assist in receiving the com-  
14          munication (or any information therein contained).

15          “(D) Having received the communication or  
16          having become acquainted with the contents, sub-  
17          stance, purport, effect, or meaning of the commu-  
18          nication (or any part thereof), to disclose the con-  
19          tents, substance, purport, effect, or meaning of the  
20          communication (or any part thereof of such commu-  
21          nication) or use the communication (or any informa-  
22          tion contained therein), subject to the restrictions in  
23          paragraph (3) of this subsection.

24          “(E) To record the communication by any  
25          means, including writing and tape recording.

1       “(2) The purposes for which officers, employees, or  
2 agents of the Secretary are permitted to engage in the  
3 activities set forth in paragraph (1) of this subsection in-  
4 clude rulemaking, accident investigation, and acquiring  
5 general information as to railroad operations.

6       “(3) Information obtained in compliance with para-  
7 graphs (1) and (2) of this subsection may not be used  
8 as evidence for the assessment or collection of civil pen-  
9 alties or for the implementation of other enforcement  
10 mechanisms provided in sections 20702(b), 20111, 20112,  
11 20113, or 20114 of this title and may not be conveyed  
12 to a railroad carrier, but may be used as background for  
13 further investigation which might lead to the discovery of  
14 other useful evidence.

15       “(4) The authority granted by this subsection shall  
16 be an exception to the general prohibitions of section 605  
17 of title 47, United States Code, and chapter 119 of title  
18 18, United States Code.

19       “(d) DEFINITION.—In this section, the term ‘at rea-  
20 sonable times’ means at any time that the railroad carrier  
21 being inspected or investigated is performing its rail trans-  
22 portation business.”.

1 **SEC. 202. EXCEPTION TO CHAPTER 119, TITLE 18, UNITED**  
 2 **STATES CODE.**

3 Section 2511(2) of title 18, United States Code, is  
 4 amended by adding after paragraph (h) the following new  
 5 paragraph:

6 “(i) Notwithstanding any other provision of this  
 7 chapter or section 605 of title 47, United States Code,  
 8 officers, employees, or agents of the Secretary of Trans-  
 9 portation in the normal course of employment and in fur-  
 10 therance of the Federal railroad safety laws at subtitle V,  
 11 part A, of title 49 may intercept radio communications  
 12 broadcast or transmitted over a frequency authorized by  
 13 the Federal Communications Commission to a railroad  
 14 carrier and may disclose or use the information thereby  
 15 obtained, for the purposes and to the extent permitted by  
 16 section 20107(c) of title 49.”.

17 **TITLE III—RULEMAKING**  
 18 **AUTHORITY**

19 **SEC. 301. RAILROAD ACCIDENT AND INCIDENT REPORTING.**

20 Section 20901(a) is amended to read as follows:

21 “(a) GENERAL REQUIREMENTS.—On a periodic basis  
 22 not less often than monthly or, if no qualifying accident  
 23 or incident occurs, on a periodic basis not less often than  
 24 quarterly, as specified by the Secretary of Transportation,  
 25 a railroad carrier shall file a report with the Secretary on  
 26 all accidents and incidents resulting in injury or death to

1 an individual or damage to equipment or a roadbed arising  
2 from the carrier's operations during that month or other  
3 applicable period. The report shall state the nature, cause,  
4 and circumstances of each reported accident or incident.  
5 If a railroad carrier assigns human error as a cause, the  
6 report shall include, at the option of each employee whose  
7 error is alleged, a statement by the employee explaining  
8 any factors the employee alleges contributed to the acci-  
9 dent or incident.”.

10 **SEC. 302. HIGH-SPEED RAIL NOISE REGULATION.**

11 (a) AMENDMENT.—Chapter 201 is amended by add-  
12 ing a new section at the end as follows:

13 **“§ 20154. High-speed rail noise regulation**

14 “The Secretary of Transportation, with the concur-  
15 rence of the Administrator of the Environmental Protec-  
16 tion Agency, shall prescribe regulations governing noise  
17 emissions from high-speed rail systems, including mag-  
18 netic levitation systems, when operating at speeds greater  
19 than 150 miles per hour. Railroad-related noise regula-  
20 tions issued pursuant to the Noise Control Act of 1972  
21 (42 U.S.C. 4916(a)) shall govern noise emissions from lo-  
22 comotives, cars, and consists of locomotives and cars,  
23 when operating at speeds equal to or less than 150 miles  
24 per hour.”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 2 sections of subchapter II of chapter 201 is amended by  
 3 adding at the end the following new item:

“20154. High-speed rail noise regulation.”.

4 **TITLE IV—WHISTLEBLOWER**  
 5 **PROTECTION**

6 **SEC. 401. EXPANSION OF EMPLOYEE PROTECTIONS.**

7 (a) Section 20109(a) is amended—

8 (1) by striking “AND TESTIFYING” in the sub-  
 9 section heading and inserting the following: “, TES-  
 10 TIFYING, REPORTING, INJURIES AND ILLNESSES,  
 11 AND COOPERATING WITH SAFETY INVESTIGA-  
 12 TIONS”;

13 (2) by striking “or” following the semicolon in  
 14 paragraph (1); and

15 (3) by striking the period at the end of para-  
 16 graph (2) and inserting a semicolon and the fol-  
 17 lowing:

18 “(3) notified, or attempted to notify, the rail-  
 19 road carrier of a work-related personal injury or  
 20 work-related illness of an employee; or

21 “(4) cooperated with a safety investigation by  
 22 the Secretary of Transportation or the National  
 23 Transportation Safety Board.”.

24 (b) Section 20109(b) is amended—

1           (1) by striking the subsection heading and in-  
2       serting “HAZARDOUS CONDITIONS.—”;

3           (2) by inserting in paragraph (1) “or against  
4       an employee responsible for the inspection or repair  
5       of safety-related equipment, track, or structures for  
6       refusing to authorize the use of such equipment,  
7       track, or structures when the employee believes that  
8       the equipment, track, or structures are in a haz-  
9       ardous condition and that the use of the equipment,  
10      track, or structures would endanger human life,”  
11      after “performance of the employee’s duties,”; and

12          (3) by striking subparagraph (C) and sub-  
13      stituting the following new subparagraph:

14          “(C) the employee, where possible, has notified  
15      the carrier of the existence of the hazardous condi-  
16      tion and the intention not to perform further work  
17      or not to authorize the use of the hazardous equip-  
18      ment, track, or structures, unless the condition is  
19      corrected immediately or the equipment, track, or  
20      structures are repaired properly or replaced.”.

21      (c) Section 20109(c) is amended by striking the sub-  
22      section and inserting the following:

23          “(c) DISPUTE RESOLUTION.—.

1           “(1) IN GENERAL.—A dispute, grievance, or  
2           claim arising under this section is subject to  
3           resolution—

4                   “(A) under section 3 of the Railway Labor  
5           Act (45 U.S.C. 553); or

6                   “(B) through a tort action brought by the  
7           employee in a district court of the United  
8           States.

9           “(2) EXPEDITED RESOLUTION UNDER RAILWAY  
10          LABOR ACT.—In a proceeding by the National Rail-  
11          road Adjustment Board, a division of delegate of the  
12          Board, or another board of adjustment established  
13          under section 3 (45 U.S.C. 553) to resolve the dis-  
14          pute, grievance, or claim, the proceeding shall be ex-  
15          pedited and the dispute, grievance, or claim shall be  
16          resolved not later than 180 days after it is filed.

17                  “(3) VENUE.—A tort action under paragraph  
18          (1)(B) of this subsection may be brought in the judi-  
19          cial district in which the dispute, grievance, or claim  
20          arose or the defendant has its principal executive of-  
21          fice.

22                  “(4) RELIEF.—If the employee has been found  
23          by the Board, division, delegate, or other board of  
24          adjustment or by the court, as applicable, to have  
25          been discharged, suspended, or otherwise discrimi-



1 nated against in violation of subsection (a) or (b) of  
 2 this section, the Board division, delegate, or other  
 3 board of adjustment or the court, as applicable—

4 “(A) may award reasonable damages, in-  
 5 cluding punitive damages sufficient to deter the  
 6 railroad carrier from such conduct in the future  
 7 up to \$100,000; and

8 “(B) shall make the employee whole, in-  
 9 cluding reinstatement, with an award of back  
 10 pay, and with all benefits and accumulated se-  
 11 niority.”.

## 12 **TITLE V—GRADE CROSSING** 13 **SAFETY**

### 14 **SEC. 501. EMERGENCY NOTIFICATION OF GRADE CROSSING** 15 **PROBLEMS.**

16 Section 20152 is revised to read as follows:

#### 17 **“§ 20152. Emergency notification of grade crossing** 18 **problems**

19 “(a) PROGRAM.—(1) The Secretary of Transpor-  
 20 tation shall promote the establishment of emergency noti-  
 21 fication systems utilizing toll-free telephone numbers that  
 22 the public can use to convey to railroad carriers, either  
 23 directly or through public safety personnel, information  
 24 about malfunctions of automated warning devices or other  
 25 safety problems at highway-rail grade crossings.

1       “(2) To assist in encouraging widespread use of such  
2 systems, the Secretary may provide technical assistance  
3 and enter into cooperative agreements. Such assistance  
4 shall include appropriate emphasis on the public safety  
5 needs associated with operation of small railroads.

6       “(b) REPORT.—Not later than 24 months following  
7 enactment of the Federal Railroad Safety Enhancement  
8 Act of 1999, the Secretary shall report to Congress the  
9 status of such emergency notification systems, together  
10 with any recommendations for further legislation that the  
11 Secretary considers appropriate.

12       “(c) CLARIFICATION OF TERM.—In this section, the  
13 use of the term ‘emergency’ does not alter the cir-  
14 cumstances under which a signal employee subject to the  
15 hours of service law limitations in chapter 211 of this title  
16 may be permitted to work up to 4 additional hours in a  
17 24-hour period when an actual ‘emergency’ under section  
18 21104(c) of this title exists and the work of that employee  
19 is related to the emergency.”.

20 **SEC. 502. VIOLATION OF GRADE CROSSING SIGNALS.**

21       (a) GENERAL.—Section 20151 is amended—

22               (1) by amending the section heading to read as  
23 follows:

1 **“§ 20151. Strategy to prevent railroad trespassing and**  
 2 **vandalism and violation of grade crossing**  
 3 **signals”;**

4 (2) in subsection (a)—

5 (A) by striking “and vandalism affecting  
 6 railroad safety” and inserting “, vandalism af-  
 7 fecting railroad safety, and violations of high-  
 8 way-rail grade crossing signals”;

9 (B) by inserting “, concerning trespassing  
 10 and vandalism,” after “such evaluation and re-  
 11 view”; and

12 (C) by inserting “The second such evalua-  
 13 tion and review, concerning violations of high-  
 14 way-rail grade crossing signals, shall be com-  
 15 pleted not later than one year after the date of  
 16 enactment of the Federal Railroad Safety En-  
 17 hancement Act of 1999” after “November 2,  
 18 1994.”;

19 (3) in the subsection heading of subsection (b),  
 20 by inserting “FOR TRESPASSING AND VANDALISM  
 21 PREVENTION” after “OUTREACH PROGRAM”;

22 (4) in subsection (c)—

23 (A) by redesignating paragraphs (1) and  
 24 (2) as subparagraphs (A) and (B), respectively;

25 (B) by inserting “(1)” after “MODEL LEG-  
 26 ISLATION.—”; and

1 (C) by adding at the end the following new  
2 paragraph:

3 “(2) Not later than two years after the date of the  
4 enactment of the Federal Railroad Safety Enhancement  
5 Act of 1999, the Secretary, after consultation with State  
6 and local governments and railroad carriers, shall develop  
7 and make available to State and local governments model  
8 State legislation providing for civil or criminal penalties,  
9 or both, for violations of highway-rail grade crossing sig-  
10 nals.”; and

11 (5) by adding at the end the following new sub-  
12 section:

13 “(d) DEFINITION.—In this section, ‘violation of high-  
14 way-rail grade crossing signals’ includes any action by a  
15 motorist, unless directed by an authorized safety officer—

16 “(1) to drive around or through a grade cross-  
17 ing gate in a position intended to block passage over  
18 railroad tracks;

19 “(2) to drive through a flashing grade crossing  
20 signal;

21 “(3) to drive through a grade crossing with pas-  
22 sive warning signs without determining that the  
23 grade crossing could be safely crossed before any  
24 train arrived; and

1 “(4) in the vicinity of a grade crossing, that  
 2 creates a hazard of an accident involving injury or  
 3 property damage at the grade crossing.”.

4 (b) CONFORMING AMENDMENT.—The item relating  
 5 to section 20151 in the table of sections for subchapter  
 6 II of chapter 201 of title 49, United States Code, is  
 7 amended to read as follows:

“20151. Strategy to prevent railroad trespassing and vandalism and violation of  
 grade crossing signals.”.

8 **SEC. 503. NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.**

9 (a) AMENDMENT.—Subchapter II of chapter 201, as  
 10 amended by this Act, is further amended by adding at the  
 11 end the following new section:

12 **“§ 20155. National highway-rail crossing inventory**

13 “(a) MANDATORY INITIAL REPORTING OF CROSSING  
 14 INFORMATION.—No later than September 30, 2001, each  
 15 railroad carrier shall—

16 “(1) report to the Secretary of Transportation  
 17 certain information, as specified by the Secretary by  
 18 rule or order issued after notice and opportunity for  
 19 public comment or by guidelines, concerning each  
 20 highway-rail crossing through which the carrier op-  
 21 erates; or

22 “(2) otherwise ensure that the information has  
 23 been reported to the Secretary by that date.

1       “(b) MANDATORY PERIODIC UPDATING OF CROSSING  
 2 INFORMATION.—On a periodic basis beginning no later  
 3 than September 30, 2003, and not less often than Sep-  
 4 tember 30 of every third year thereafter, or as otherwise  
 5 specified by the Secretary of Transportation by rule or  
 6 order issued after notice and opportunity for public com-  
 7 ment or by guidelines, each railroad carrier shall—

8               “(1) report to the Secretary certain current in-  
 9 formation, as specified by the Secretary by rule or  
 10 order issued after notice and opportunity for public  
 11 comment or by guidelines, concerning each highway-  
 12 rail grade crossing through which it operates; or

13               “(2) otherwise ensure that the information has  
 14 been reported to the Secretary by that date.

15       “(c) DEFINITIONS.—In this section:

16               “(1) HIGHWAY-RAIL CROSSING.—The term  
 17 ‘highway-rail crossing’ means a location within a  
 18 State where a public highway, road, street, or pri-  
 19 vate roadway, including associated sidewalks and  
 20 pathways, crosses one or more railroad tracks either  
 21 at grade or grade separated.

22               “(2) STATE.—The term ‘State’ means a State  
 23 of the United States, the District of Columbia, Puer-  
 24 to Rico, the Northern Mariana Islands, Guam,  
 25 American Samoa, and the Virgin Islands.”.

1 (b) TABLE OF SECTIONS AMENDMENT.—The table of  
 2 sections for chapter 201 is amended by adding after new  
 3 item 20154 the following new item:

“20155. National highway-rail crossing inventory.”.

4 (c) AMENDMENT.—Section 130 of title 23, United  
 5 States Code, is amended—

6 (1) by amending the section heading to read as  
 7 follows:

8 **“§ 130. Highway-rail crossings”;**

9 (2) by inserting the following new subsection at  
 10 the end:

11 “(k) NATIONAL HIGHWAY-RAIL CROSSING INVEN-  
 12 TORY.—

13 “(1) MANDATORY INITIAL REPORTING OF  
 14 CROSSING INFORMATION.—No later than September  
 15 30, 2001, each State shall—

16 “(A) report to the Secretary of Transpor-  
 17 tation certain information, as specified by the  
 18 Secretary by rule or order issued after notice  
 19 and opportunity for public comment or by  
 20 guidelines, concerning each highway-rail cross-  
 21 ing located within its borders; or

22 “(B) otherwise ensure that the information  
 23 has been reported to the Secretary by that date.

24 “(2) MANDATORY PERIODIC UPDATING OF  
 25 CROSSING INFORMATION.—On a periodic basis be-

ginning no later than September 30, 2003, and not less often than September 30 of every third year thereafter, or as otherwise specified by the Secretary of Transportation by rule or order issued after notice and opportunity for public comment or by guidelines, each State shall—

“(A) report to the Secretary certain current information, as determined by the Secretary by rule or order issued after notice and opportunity for public comment or by guidelines, concerning each highway-rail crossing located within its borders; or

“(B) otherwise ensure that the information has been reported to the Secretary by that date.

“(3) DEFINITIONS.—In this subsection:

“(A) HIGHWAY-RAIL CROSSING.—The term ‘highway-rail crossing’ means a location where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks either at grade or grade separated.

“(B) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Is-



1           lands, Guam, American Samoa, and the Virgin  
2           Islands.”.

3           (d) TABLE OF SECTIONS AMENDMENT.—The table  
4 of sections for chapter 1 of title 23, United States Code,  
5 is amended by striking the existing item for section 130  
6 and inserting:

“130. Highway-rail crossings.”.

7           (e) CIVIL PENALTIES.—(1) Section 21301(a)(1) is  
8 amended—

9                   (A) by striking the period at the end of the first  
10 sentence and inserting “or with section 20155”; and

11                   (B) in the second sentence, by inserting “or vio-  
12 lating section 20155” between “chapter 201” and  
13 “is liable”.

14           (2) Section 21301(a)(2) is amended by inserting after  
15 the first sentence the following: “The Secretary shall sub-  
16 ject a person to a civil penalty for a violation of section  
17 20155 of this title”.

## 18           **TITLE VI—MISCELLANEOUS** 19                   **PROVISIONS**

### 20           **SEC. 601. TECHNICAL AMENDMENTS REGARDING ADJUST-** 21                   **MENT OF CIVIL PENALTIES FOR INFLATION.**

22           (a) CHAPTER 201 GENERAL VIOLATIONS.—In sec-  
23 tion 21301(a)(2), as amended by this Act, insert after  
24 “\$10,000” and after “\$20,000” the following: “or such  
25 other amount to which the stated maximum penalty is ad-

1 justified if required by the Federal Civil Penalties Inflation  
 2 Adjustment Act of 1990 (Public Law 101–410, 28 U.S.C.  
 3 2461 note)”.  
 4

5 (b) CHAPTER 201 ACCIDENT AND INCIDENT VIOLA-  
 6 TIONS AND CHAPTER 203–209 VIOLATIONS.—In section  
 7 21302(a)(2), as amended by this Act, insert after  
 8 “\$10,000” and after “\$20,000” the following: “or such  
 9 other amount to which the stated maximum penalty is ad-  
 10 justified if required by the Federal Civil Penalties Inflation  
 11 Adjustment Act of 1990 (Public Law 101–410, 28 U.S.C.  
 12 2461 note)”.  
 13

14 (c) CHAPTER 211 VIOLATIONS.—In section  
 15 21303(a)(2), as amended by this Act, insert after  
 16 “\$10,000” and after “\$20,000” the following: “or such  
 17 other amount to which the stated maximum penalty is ad-  
 18 justified if required by the Federal Civil Penalties Inflation  
 19 Adjustment Act of 1990 (Public Law 101–410, 28 U.S.C.  
 20 2461 note)”.  
 21

22 **SEC. 602. REVISION OF SPECIAL PREEMPTION PROVISION.**

23 Section 711 of the Regional Rail Reorganization Act  
 24 of 1973 (section 797j of title 45, United States Code),  
 25 is revised to read as follows:

“SEC. 711. No State may continue in force any law,  
 rule, regulation, order, or standard adopted before the  
 date of enactment of the Federal Railroad Safety En-

1 hancement Act of 1999 requiring any railroad in the Re-  
 2 gion to employ any specified number of persons to perform  
 3 any particular task, function, or operation, or requiring  
 4 the railroad to pay protective benefits to employees.”.

5 **SEC. 603. RAILROAD SAFETY INSPECTION USER FEES.**

6 Section 20115 is amended—

7 (1) in subsection (a)—

8 (A) by striking “chapter” in the first sen-  
 9 tence and inserting “part”; and

10 (B) by striking paragraph (1) and insert-  
 11 ing the following:

12 “(1) shall cover the costs incurred by the Fed-  
 13 eral Railroad Administration in carrying out this  
 14 part and chapter 51 of this title;”;

15 (2) by striking subsection (c) and inserting the  
 16 following:

17 “(c) COLLECTION, DEPOSIT, AND USE.—(1) The  
 18 Secretary is authorized to impose and collect fees under  
 19 this section for each fiscal year (beginning with fiscal year  
 20 2000) before the end of the fiscal year to cover the costs  
 21 of carrying out this part and Federal Railroad Adminis-  
 22 tration activities in connection with chapter 51 of this  
 23 title.

24 “(2) Fees authorized under this section shall be col-  
 25 lected and available for obligation only to the extent and

1 in the amount provided in advance in appropriations acts.  
2 Such fees are authorized to be appropriated to remain  
3 available until expended.”; and

4 (3) by striking subsections (d) and (e).

5 **SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

6 Section 20117(a) is amended—

7 (1) in subsection (a)(1), by striking “chapter”  
8 and inserting “part and to carry out chapter 51 of  
9 this title with respect to the railroad mode of trans-  
10 portation” and by striking subparagraphs (A)  
11 through (F);

12 (2) by striking subsection (a)(2); and

13 (3) by redesignating subsection (a)(1) as sub-  
14 section (a), and inserting the following at the end:

15 “(1) \$117,262,000 for the fiscal year ending  
16 September 30, 2000.

17 “(2) Such sums as may be necessary for fiscal  
18 years 2001 through 2003.”.

○